

(Stipulating Parties Listed on Signature Pages)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Master Case No. 3:07-cv-5944-SC
MDL No. 1917

In re CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

STIPULATION AND ~~PROPOSED~~
ORDER REGARDING DEFENDANTS'
MOTION TO DISMISS THE SHARP
COMPLAINT

This Document Relates to:

Sharp Elecs. Corp. v. Hitachi Ltd.
Case No. 3:13-cv-1173-SC

*Sharp Elecs. Corp. v. Koninklijke Philips
Elecs. N.V.*
Case No. 3:13-cv-2776-SC

Pursuant to Civil Local Rules 6-2 and 7-12, the undersigned Defendants and Plaintiffs Sharp Electronics Corporation and Sharp Electronics Manufacturing Company of America, Inc. (collectively, “Sharp” or the “Stipulating Plaintiffs”) have conferred by and through their counsel and, subject to the Court’s approval, HEREBY STIPULATE AS FOLLOWS:

WHEREAS, there is pending in the United States District Court for the Northern District of California a multidistrict consolidated proceeding comprised of actions brought on behalf of purported purchasers of cathode ray tubes (“CRT”) and CRT finished products, captioned as In re: Cathode Ray Tube (CRT) Antitrust Litigation, Case No. 3:07-cv-05944 SC (MDL No. 1917) (the “MDL Proceedings”);

WHEREAS, on March 15, 2013, Sharp filed a Summons and Complaint in the Northern District of California, Sharp Electronics Corp., et al. v. Hitachi, Ltd., et. al., Case No. 13-cv-1173 (the “Sharp Action”);

WHEREAS, on March 26, 2013, this Court entered an Order finding that Sharp Electronics Corp., et al. v. Hitachi, Ltd., et al. is related to the MDL Proceedings (MDL Dkt. No. 1608);

WHEREAS, on April 23, 2013, Sharp filed a Stipulation and Proposed Order Regarding the Complaint in the Sharp Action (MDL Dkt. 1649) requesting the Court to enter an order authorizing the Defendants and Sharp, once the Court has ruled on the Defendants’ motions to dismiss and for judgment on the pleadings with respect to certain Direct Action Plaintiff complaints (MDL Dkt. Nos. 1316, 1317, 1319), to set a reasonable deadline for Defendants’ answers and/or a reasonable briefing schedule for Defendants’ motions to dismiss Sharp’s Complaint;

WHEREAS, on April 24, 2013, the Court entered an Order pursuant to the Stipulation Regarding the Complaint in the Sharp Action (MDL Dkt. No. 1652);

WHEREAS, on May 17, 2013, Thomson Consumer Electronics, Inc. (“Thomson”) filed a Notice of Motion and Motion to Dismiss Sharp’s claims in the Sharp Action (MDL Dkt. No. 1677);

1 WHEREAS, on September 26, 2013, the Court entered an Order granting
 2 Thomson's Motion to Dismiss and granting Sharp thirty (30) days from the date of this Order to file
 3 an amended complaint (MDL Dkt. 1960);

4 WHEREAS, on October 1, 2013, undersigned Defendants filed a Stipulation and
 5 Proposed Order Setting Schedule for Defendants to Answer or Otherwise Respond to the Dell
 6 Amended Complaint, Sharp Complaint, and Tech Data Amended Complaint (MDL Dkt. 1969), to
 7 set deadlines for Defendants' answers and/or motions to dismiss Sharp's Complaint;

8 WHEREAS, on October 1, 2013, the Court entered an Order pursuant to the
 9 Stipulation and Proposed Order Setting Schedule for Defendants to Answer or Otherwise Respond
 10 to the Dell Amended Complaint, Sharp Complaint, and Tech Data Amended Complaint (MDL Dkt.
 11 1971);

12 WHEREAS, on October 7, 2013, pursuant to the stipulated deadline, the Defendants
 13 filed a Joint Notice of Motion and Motion to Dismiss certain of Sharp's state law claims (MDL Dkt.
 14 No. 1992) ("Defendants' Joint Motion to Dismiss");

15 WHEREAS, on October 7, 2013, pursuant to the stipulated deadline, Defendants
 16 Toshiba Corporation; Toshiba America, Inc.; Toshiba America Electronic Components, Inc.; and
 17 Toshiba America Information Systems, Inc. (collectively, "Toshiba Defendants") filed a Notice of
 18 Motion and Motion to Dismiss Sharp's federal and state law claims (MDL Dkt. No. 2000)
 19 ("Toshiba Defendants' Motion to Dismiss");

20 WHEREAS, on October 28, 2013, Sharp filed a First Amended Complaint and
 21 Demand for Jury Trial (Attachment 4, filed under seal, to MDL Dkt. No. 2030) (the "Sharp First
 22 Amended Complaint");

23 WHEREAS, on November 6, 2013, Sharp filed an Opposition to Defendants' Joint
 24 Motion to Dismiss (MDL Dkt. 2194) and an Opposition to Toshiba Defendants' Motion to Dismiss
 25 (MDL Dkt. 2195);

26 WHEREAS, on November 20, 2013, Defendants filed a joint Reply in support of
 27 Defendants' Joint Motion to Dismiss (MDL Dkt. 2231) and Toshiba Defendants filed a Reply in
 28 support of Toshiba Defendants' Motion to Dismiss (MDL Dkt. 2229);

1 WHEREAS, the Stipulating Plaintiffs and the Defendants seek to resolve the
 2 Defendants' arguments in a manner that conserves the resources of the Court and avoids repetitive
 3 briefing on the same issues;

4 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between
 5 counsel for the Stipulating Plaintiffs and counsel for the undersigned Defendants in the above-
 6 captioned actions, as follows:

- 7 1. The Stipulating Plaintiffs and Defendants agree that Defendants' Joint Motion to
 8 Dismiss (MDL Dkt. No. 1992) and Toshiba Defendants' Motion to Dismiss (MDL
 9 Dkt. No. 2000) shall be deemed to apply to the Sharp First Amended Complaint;
- 10 2. The undersigned Defendants do not need to otherwise respond to the Sharp First
 11 Amended Complaint;
- 12 3. In the event that the Court grants either motion to dismiss with leave to amend, the
 13 undersigned Defendants will not argue that, because Sharp filed its First Amended
 14 Complaint, it should be prohibited from filing a Second Amended Complaint
 15 consistent with the Court's order. Additionally, at oral argument on Defendants'
 16 Joint Motion to Dismiss and Toshiba Defendants' Motion to Dismiss, the
 17 undersigned Defendants will not argue that Sharp's First Amended Complaint
 18 should be dismissed with prejudice for the reason that Sharp has already been
 19 given one opportunity to file an amended complaint and correct pleading
 20 deficiencies; Sharp agrees that this limitation does not prevent Defendants from
 21 arguing that Sharp's First Amended Complaint should be dismissed with prejudice
 22 for any other reason; and
- 23 4. By virtue of this Stipulation, the undersigned Defendants and the Stipulating
 24 Plaintiffs do not waive any of their appeal rights to any issues addressed and
 25 resolved in this Stipulation.

1 Dated: December 2, 2013

Respectfully submitted,

2 By: /s/ Adam C. Hemlock

3 DAVID L. YOHAI (*pro hac vice*)

E-mail: david.yohai@weil.com

4 ADAM C. HEMLOCK (*pro hac vice*)

E-mail: adam.hemlock@weil.com

5 DAVID E. YOLKUT (*pro hac vice*)

E-mail: david.yolkut@weil.com

6 **WEIL, GOTSHAL & MANGES LLP**

7 767 Fifth Avenue

New York, New York 10153-0119

8 Telephone: (212) 310-8000

9 Facsimile: (212) 310-8007

10 JEFFREY L. KESSLER (*pro hac vice*)

E-mail: jkessler@winston.com

11 A. PAUL VICTOR (*pro hac vice*)

E-mail: pvictor@winston.com

12 ALDO A. BADINI (SBN 257086)

E-mail: ABadini@winston.com

13 EVA W. COLE (*pro hac vice*)

E-mail: ewcole@winston.com

14 MOLLY M. DONOVAN

E-mail: mmdonovan@winston.com

15 **WINSTON & STRAWN LLP**

16 200 Park Avenue

New York, NY 10166

17 Telephone: (212) 294-6700

18 Facsimile: (212) 294-4700

19 *Attorneys for Defendants Panasonic Corporation,*
20 *Panasonic Corporation of North America, and MT*
Picture Display Co., Ltd.

21 By: /s/ Lucius B. Lau

22 CHRISTOPHER M. CURRAN (*pro hac vice*)

E-mail: ccurran@whitecase.com

23 LUCIUS B. LAU (*pro hac vice*)

E-mail: alau@whitecase.com

24 DANA E. FOSTER (*pro hac vice*)

E-mail: defoster@whitecase.com

25 **WHITE & CASE LLP**

26 701 Thirteenth Street, N.W.

Washington, DC 20005

27 Telephone: (202) 626-3600

28 Facsimile: (202) 639-9355

*Attorneys for Defendants Toshiba Corporation,
Toshiba America, Inc., Toshiba America Information
Systems, Inc., Toshiba America Consumer Products,
L.L.C., and Toshiba America Electronic
Components, Inc.*

By: /s/ Erik T. Koons

JOHN M. TALADAY (*pro hac vice*)

E-mail: john.taladay@bakerbotts.com

JOSEPH OSTOYICH (*pro hac vice*)

E-mail: joseph.ostoyich@bakerbotts.com

ERIK T. KOONS (*pro hac vice*)

E-mail: erik.koons@bakerbotts.com

CHARLES M. MALAISE (*pro hac vice*)

E-mail: charles.malaise@bakerbotts.com

BAKER BOTTS LLP

1299 Pennsylvania Avenue, N.W.

Washington, DC 20004-2400

Telephone: (202) 639-7700

Facsimile: (202) 639-7890

*Attorneys for Defendants Koninklijke Philips N.V. and
Philips Electronics North America Corporation*

By: /s/ Hojoon Hwang

HOJOON HWANG (SBN 184950)

E-mail: Hojoon.Hwang@mto.com

MUNGER, TOLLES & OLSON LLP

560 Mission Street, Twenty-Seventh Floor

San Francisco, CA 94105-2907

Telephone: (415) 512-4000

Facsimile: (415) 512-4077

WILLIAM D. TEMKO (SBN 098858)

E-mail: William.Temko@mto.com

JONATHAN E. ALTMAN (SBN 170607)

E-mail: Jonathan.Altman@mto.com

BETHANY W. KRISTOVICH (SBN 241891)

E-mail: Bethany.Kristovich@mto.com

MUNGER, TOLLES & OLSON LLP

355 South Grand Avenue, Thirty-Fifth Floor

Los Angeles, CA 90071-1560

Telephone: (213) 683-9100

Facsimile: (213) 687-3702

*Attorneys for Defendants LG Electronics, Inc.; LG,
LG Electronics USA, Inc.; and LG Electronics
Taiwan Taipei Co., Ltd.*

1 By: /s/ Eliot A. Adelson

2 ELIOT A. ADELSON (SBN 205284)

3 E-mail: eadelson@kirkland.com

4 **KIRKLAND & ELLIS LLP**

5 555 California Street

6 27th Floor

7 San Francisco, CA 94104

8 Telephone: (415) 439-1413

9 Facsimile: (415) 439-1500

10 *Attorneys for Defendants Hitachi, Ltd.; Hitachi*
11 *Displays, Ltd. (n/k/a Japan Display Inc.); Hitachi*
12 *America, Ltd.; Hitachi Asia, Ltd.; and Hitachi*
13 *Electronic Devices (USA), Inc.*

14 By: /s/ James McGinnis

15 GARY L. HALLING (SBN 66087)

16 E-mail: ghalling@sheppardmullin.com

17 JAMES L. MCGINNIS (SBN 95788)

18 E-mail: jmcginnis@sheppardmullin.com

19 MICHAEL W. SCARBOROUGH, (SBN 203524)

20 E-mail: mscarborough@sheppardmullin.com

21 **SHEPPARD MULLIN RICHTER & HAMPTON**

22 Four Embarcadero Center, 17th Floor

23 San Francisco, CA 94111

24 Telephone: (415) 434-9100

25 Facsimile: (415) 434-3947

26 *Attorneys for Defendants Samsung SDI America,*
27 *Inc.; Samsung SDI Co., Ltd.; Samsung SDI*
28 *(Malaysia) SDN. BHD.; Samsung SDI Mexico S.A.*
DE C.V.; Samsung SDI Brasil Ltda.; Shenzhen
Samsung SDI Co., Ltd. and Tianjin Samsung SDI Co.,
Ltd.

29 By: /s/ Craig A. Benson

30 KENNETH A. GALLO (*pro hac vice*)

31 E-mail: kgallo@paulweiss.com

32 JOSEPH J. SIMONS (*pro hac vice*)

33 E-mail: jsimons@paulweiss.com

34 CRAIG A. BENSON (*pro hac vice*)

35 E-mail: cbenson@paulweiss.com

36 **PAUL, WEISS, RIFKIND, WHARTON &**
37 **GARRISON LLP**

38 2001 K Street, NW

Washington, DC 20006

Telephone: (202) 223-7356

Facsimile: (202) 204-7356

*Attorneys for Plaintiffs Sharp Electronics
Corporation and Sharp Electronics Manufacturing
Company of America, Inc.*

Pursuant to Local Rule 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from each of the above signatories.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: January 8, 2014



Hon. Samuel Conti
United States District Judge